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Navigating the digital marketplace: Analyzing competition issues in Indian E-commerce under the Competition Act, 2000

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Abstract
Electronic commerce is referred to as e-commerce. It's a business medium where transactions are conducted electronically through networks and the internet. E-commerce promotes community growth but also has a big impact on a society's social and economic structure. It provides a platform where small sellers or the new market entrants can explore distinct options of widening their businesses due to low infrastructural and maintenance costs. However, this new sector besides having its own unique features also has a unique set of issues in addition to those that are prevalent in the conventional physical market.
This research work attempts to analyse the different issues and challenges in light of section 4 of the Competition Act, 2000 that have come up before the regulating authority with the growth and expansion of the digital economy. This section prohibits 'abuse of dominant position' in India. When an enterprise or a group of enterprises uses its dominant position in an exploitative manner in the relevant market then it is called as abuse of dominant position Earlier the economy of the country was completely operating as a physical market economy but with passage of time and due to technological innovations, digital economy has also emerged having its own unique features, advantages, disadvantages and issues. E-commerce is a part of the digital economy; thus, the focus of this research work is on the competition issues relating to abuse of dominance prevailing in the e-commerce that has evolved mainly due to technological innovations and developing at a faster rate with time.

Keywords: Abuse of dominance, dominant position, e-commerce, enterprise, technology

Introduction
E-commerce has a significant impact on social and economic structure of a society; however, it supports community development. Indian e-commerce industry is gradually evolving from its nascent stage and is under the scanner of the Competition Commission of India. However, this newly emerging sector may give rise to different set of anti-competitive activities that may be unknown earlier along with the ones that are already prevailing in the traditional market economy.
The major issues in Indian e-commerce industry are pre-emptive mergers, predatory pricing, unhealthy incentives to expand capital quickly, digital monopolies which can hamper competition and innovation, moreover, digitalisation causes problems related to privacy and data protection. The most recent event which comes under the purview of unfair trade practices or which is anti-competitive in nature is the case on Google for providing biased services. All these fast developments in the digital economy challenge existing regulatory framework. Thus, digitalised economy should not be regulated only from the competition point of view but various other aspects of it such as privacy issues, taxation, issues relating to intellectual property rights, etc. should also be taken into consideration. All these factors also affect the competition in one way or the other. Acceptability of doing business is increasing or growing with time. Thus, it becomes pertinent that competition complexities may grow in e-commerce sector in the coming time.

Meaning of E-commerce
E-commerce stands for electronic commerce. It is a medium for doing business in which business transactions are done electronically using networks and the internet. It basically has two aspects: economic and technological. It includes electronic trading of goods and services. Electronic commerce is an emerging model of new selling and merchandising tools in which buyers are able to participate in all phases of a purchase decision, while stepping through those processes electronically rather than in a physical store or by phone (with a

physical catalogue). E-commerce is showing strong growth and it has been playing influential role in the social and economic growth of nations. On one hand e-commerce technologies have helped nations to accelerate their economic growth and to provide more opportunities for businesses to grow, but it has also created many challenges and effects across numerous domains of society, and for policy makers.

There is no such universally accepted definition of E-commerce, yet efforts have been made to define it differently. In simple terms, it is generally considered as a medium for carrying on business through the electronic means as against the traditional means. According to the UK Department of Trade and Industry, e-commerce is the exchange of information across electronic networks, at any stage in the supply chain, whether within an organization, between businesses, between businesses and consumers, or between the public and the private sectors, whether paid or unpaid [1].

According to Organization for Economic Co-operation and Development (OECD), ecommerce is the business occurring over networks using non-proprietary protocols established through an open standard setting process [2].

E-commerce is the new channel of distribution of products and services to the consumers and is growing exponentially. As it is where Online Retail Portals (ORPs), such as Flipkart which was initially selling only books, has now extended its business and dealing in a wide range of products such as electronic gadgets, wearing apparels, home appliances, etc.

Internet based businesses, along with several other high-technology sectors form part of the new economy. The digital economy is unique in a number of ways. Digital market is characterised by network effects. At the same time, service providers have multiple routes available for delivering digital services to end users which makes the market contestable. There are certain unique advantages of e-commerce:

- It allows a shop or an office to open twenty-four hours a day, seven days a week.
- A web site can bring a prospect from the point of advertising and information directly to the point of sale, seamlessly, without involving any other medium. [3]
- It brings considerable net benefits to the economy.
- It has made business transactions more efficient.

Meaning of Abuse of dominance

In the Competition Act, 2002, the term ‘dominant position’ is defined as:

“Dominant position means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to—

a. Operate independently of competitive forces prevailing in the relevant market; or
b. Affect its competitors or consumers or the relevant market in its favour [4]:”In case of United Brand V. Commission of European Communities [5], the European Commission has defined dominance as:

“a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, customers, and consumer.”

It is not illegal in India to hold a dominant position within the relevant market as it can be obtained by legal means of competition, for example, by selling better products than other competitors at suitable prices. The only problem arises when such position is abused by the position holder resulting in the negative impact on competition in the market as the abuse of dominant position is prohibited under the Competition Act in the words that “no enterprise or group shall abuse its dominant position” [6]. Therefore, the provisions of the competition law apply or come into force only in the situation when the position of the enterprise suppresses the competition in the market.

In every investigation related to abuse of dominance, there are basically three key elements that are analysed and taken into consideration by the Competition Commission of India to ascertain the abuse of dominant position by the enterprise under investigation. They are as follows:

- Determination of relevant market
- To analyse whether the enterprise under investigation is possessing a dominant position in the relevant market.
- If the concerned enterprise is found to have a dominant position in the relevant market in India, then to ascertain whether such enterprise has engaged in any activity that can be considered as an abuse of dominant position under section 4 of the Competition Act, 2002.

Emerging issues

E-commerce in India is still in its nascent stage, even then this blooming industry is viewed to have immense potential to bring about a drastic change in the entire model or system of the retail market in India. E-commerce simply facilitates commercial transactions to be done or carried on electronically through the use of internet. The scope of e-commerce is not limited to mere buying and selling of products or availing of services but it also takes into account other transactions as well made in lieu of delivery, payment facilitation, supply chain and service management, etc.

The major question that is consistently prevailing in almost all the jurisdictions is whether the e-commerce sector and the conventional physical markets are similar or different in terms of competition issues they impose on the legal frameworks and competition regulating authorities. Although they both are different in their nature and approach but the competition concerns that are put forth by them are more or less similar except for a few that exclusively prevail in the e-commerce sector. The two major concerns out of them are:

- Network effects and its consequences.
- Determination of relevant market in e-commerce industry.

Network effects

Network effects make it difficult for new firms or enterprises to enter the market because in this digital industry, the minimum scale of network required is sometimes larger than the size of the market. However, it is believed that the entry barriers in the online markets with network effects are mainly due to the first mover advantage which allowed the firms who entered first in this industry to establish a strong consumer base and sustain their position and they cannot be blamed for that [7].

In digitalised market economy, digital giants try to place themselves in a gatekeeper position. Thus, misusing their position, they lock in end users and aim at making themselves indispensable. Once they get success in making themselves indispensable, they can potentially hamper competition in the market, sometimes resulting in the monopolisation of the market or their dominance in the market. Network effects play a crucial role in testifying such dominant position of the company. Network effect is said to occur when a company's product or service becomes more valuable as usage increases and results in an increase in the number of end users. The value of the goods or service is determined by the user base which means it comes into action once the platform gains a large no. of subscribers.

The concept of network effect works on the law that the value of a network is proportional to the square of the number of connected users that the system has. [8] It means that any platform becomes popular and valuable with a large network effect i.e. as the size of its network increases or enlarges. These are valuable for growth but at the same time often adversely affect the competition in the market. Network effects can be categorised into direct and indirect. The direct network effect means that a platform becomes more attractive to consumers if the total no. of consumers or end users grow, for example, WhatsApp and Facebook. Indirect network effects are the one where the value of a platform increases with an increase in the benefit that users acquire due to an increase in the no. of users on the other side of the same platform and vice-versa. It occurs in two sided markets; best example is Ola and Uber cab services. The concept of network effects has led to the creation of a concept i.e. 'winner takes all' or 'winner takes the most'. [9] This is another issue prevailing or becoming popular day by day in digitalised economy as network effect increases the size of the company, its market increases resulting in the dominance of the company if no substitute is available.

Predatory pricing is one of the major concerns even in the e-commerce industry. Predatory pricing is common to both the sectors i.e. e-commerce and the conventional physical markets. It basically refers to a practice of selling the products at a price which is below the cost of production to drive the rival enterprise out of the market. Selling below the cost is not an offence in itself but it becomes an issue when it is done by a dominant firm with the aim of foreclosing the competition in the market. Predatory pricing artificially alters the demand and supply equilibriums by lowering down the prices as a result predator's rivals are also compelled to reduce their prices. 'A further incentive for adopting predatory strategies is that players that acquire more users more rapidly typically have a better shot at long term market dominance.' [10] Though this approach is beneficial for consumers in short run but if it is left unchecked, it may lead to the monopolisation of a particular enterprise and can potentially compromise quality and may lead to several unhealthy incentives used by the company to expand capital quickly.

To prevent small companies from growing, many big firms attract new customers as well as retaining old ones with predatory pricing schemes. Predatory pricing and deep discounting technique is often used to have increased network effects that is in itself an issue as has been discussed above. However, other than the above mentioned, there occurs certain non-price predatory behaviours or practices such as, excluding the rival enterprises from the network software. The aim of all e-commerce business entities is not to earn profit but to capture the market share. These businesses typically run into heavy losses for a longer period of time prior reaching the profitability mark ultimately. For example, Amazon took almost sixteen years to establish itself and other giant enterprises such as Snapdeal, etc. are yet to attain that mark.

Determination of relevant market in e-commerce

Another issue that is the most common among all others is the determination of relevant market in the e-commerce industry. The question arises as to whether e-commerce market constitute a separate relevant market or whether the e-commerce market places conventional physical markets form the part of the same relevant market? This particular issue has not been decided yet in any jurisdiction. Delineation of relevant market is a matter of concern worldwide; different countries have been making efforts to resolve this issue but no conclusion could be drawn till yet. However, European Commission has been continuously making efforts to recognise and resolve this issue by moving towards the creation of a 'digital single global market'. European Union believes that an open and fair digital market would benefit both the customers and the merchants.

However, in India, for the competition regulating authorities, both the e-commerce sector and the governing law are relatively new therefore, India is facing more difficulties in dealing with this issue. Different horizons can be seen in the different judgements of the Competition Commission of India regarding the issue of determination of the relevant market in case of e-commerce sector.

In the case of Ashish Ahuja V. Snapdeal.com [11], The Competition Commission clearly stated that "Both offline and online markets differ in terms of discounts and shopping experience; buyers weigh the options available in both markets and decide accordingly. If the price in the online market increases significantly, the consumer is likely to shift towards the offline market and vice-versa thus, the offline and online markets are different channels of distribution of the same product and are not two different relevant markets"

In the case of Mohit Manglani V. Flipkart India Pvt. Ltd. & others [12], the Competition Commission of India refused to opine conclusively by stating that "irrespective of whether we consider e-portal market as a separate relevant product market or as a sub-segment of the market for distribution, none of the Online Portals seems to be individually dominant". The commission further stated that individual products cannot be construed as a relevant market in themselves.

But in the case of taxi aggregation services, Fast Track Call Cab Private Limited V. ANI Technologies Pvt. Ltd. [13], The Competition Commission of India held the 'radio cabs service' to be a relevant market in itself on the ground that such services cannot be substituted with other modes of transport by the consumers. The commission considered certain characteristics of radio taxis as relevant as they are not available in other modes of transport. Some of them cited by the CCI are "convenience in terms of time saving, point-to-point pick and drop, pre-booking facility, ease of availability even at obscure places, round the clock availability, predictability in terms of expected waiting/ journey time etc."

Thus, keeping in mind that it is the transaction efficiency which makes the internet-based marketplaces more important as trading platforms. Through the above cases, it becomes evident that e-commerce may represent an additional marketing or distribution channel for the same products in the same relevant market or it may create new products or services having their own unique characteristics thereby giving rise to a separate relevant market.

Therefore, the question as to whether e-commerce creates a new product market or forms the part of the same market depends upon market to market and would partly depend on how, if, firms in traditional channels are getting involved in the online deliverability of the product and it would differ from case to case. However, the power to determine such relevant market vests only in the Competition Commission of India under section 19(5) of the Competition Act, 2002.

The following examples can be considered to make the concept clearer. In some cases, e-commerce merely acts as an addition sales channel or additional distribution channel. For example, grocery market, online grocery retailing is just an alternative sales channel for the same product. [14] While in some other cases, e-commerce may create entirely new products or services thus giving rise to new relevant markets. For example, online cab service.

There is also a need to consider customer perceptions, while deciding or determining the relevant market, as to how the two sales channels differ while comparing the prices and providing ancillary services such as, providing the product information, etc. Although e-commerce being in a virtual world has no boundaries as such and tends to widen geographic markets but it does not mean that the transactions take place in global markets. Language barriers, taxation issues etc. are some of the problems which act against there being a truly global market [15] and all these factors are taken into account while determining the relevant geographic market.

Another issue or point of concern is the common ownership of competing firms, where a common set of investors own significant shares in competing firms in concentrated markets and they have the potential to influence the competition in the market by reducing the incentives of the firms. But under such situations, the owners would not benefit from one firm having increased its sales through price cuts as that would be at the cost of the sales of another competing firm that is also owned by the same investors. And thus, investors would never take or acquire profit at the stake of the other firms being owned by them, hence such situations ultimately result in high prices across the market instead of having profit by lowering down the prices of a particular firm. Consequently, consumers are the ultimate victims as now they have to pay high prices even where these prices could have been lowered down.

The Private Equity industry has examples of competitors that are funded by common investors, giving rise to competition concerns at international level as well as in domestic market economies. The leading technology fund Tiger Global Management LLC (Tiger Global) has invested worldwide in a number of companies dealing in taxi business such as Ola & Uber in India, Didi Chuxing in China and Grab taxi in Singapore. Didi Chuxing Company itself had invested in Ola in India, then the announcement of Uber in China business merging with Didi came out in August, 2016. This led to the creation of an interlocking structure of shareholding which is likely to influence competition in this industry in India in coming time. [16]

Impact of e-commerce on conventional physical markets

The e-commerce market and the conventional physical markets are generally considered as different distribution channels of the same relevant market except in certain cases depending upon the individual case. Both the online and offline market places mainly revolve around prices and pricing strategies adopted by each of them. The e-commerce market has certain advantages over the off-line physical markets. Some of them are as follows:

- A variety of goods is offered by the e-commerce market places to which offline markets cannot compete because at the end of the year, the surplus stock becomes the left-over stock which could result in huge losses to the retailers.
- Low prices offered by the online retail stores give rise to window shopping being done by the customers at the physical market places and then they buy products online which often provides offers and discounts. Due to this, offline retailers have prospective customers than the actual customers.
- E-commerce market places also offer a wider portfolio of products and different products such as, clothes, foot wears, jewellery, bags, etc. can be gathered from single platform and that too is made available by them to the customers at their door step. This way, online portals significantly provide higher level of comfort and convenience.
- Another plus point with the e-commerce market places is that they have the liberty and ability to display a vast array of products including those that are not even in stock. On the other hand, physical market stores cannot display all at the same time.
- Based on the Indian sceptical mind-set that still yearns for the physical touch of products before purchasing them like products for babies or certain expensive products or items such as jewellery, watches, etc., some of the online players like Caratlane.com and firstcry.com have also set up their physical shops for customers in order to satisfy them. Thus, this way they are trading in both online and offline modes thereby reaching out to a large customer base.

The e-commerce companies in India operate as marketplaces. This is because in India law does not allow Foreign Direct Investment in e-commerce entities that are selling directly to customers i.e. business to consumers transactions. But it is allowed in marketplaces that link sellers and buyers such as Flipkart, Amazon, etc. However, these marketplaces are prohibited from exercising any kind of control over the prices of the products of the sellers on their platform, including the matters of discounts. But discounts seem to be essential for e-commerce as the buyers have resorted to online shopping in a big way mainly due to the lucrative discounts offered by the e-commerce enterprises.

However, this deep discounting strategy adopted by the e-commerce firms to acquire a large market share has increased the problems of the brick-and-mortar retailers who are gradually losing their customers to online retail portals and are thus fighting to survive in the market. They complain that their shops are being reduced to mere show-rooms for the customers where people visit the shops, inquire about product details and other specifications and utility of the product or service but ultimately, they prefer to purchase the same product or service from the online portals, which offer cheaper prices by giving heavy discounts which are anti-competitive in nature.

The online retail portals spend huge amounts of money that they raise from the investors and this is highlighted in the discounting strategy followed by them. It is because of this significant funding back-up that they are able to adopt the strategy of providing considerable discounts thus reducing the prices of the products even below the cost of production thereby resulting in predatory pricing. Thus, there is a need to regulate such offering of discounts adopted by e-commerce firms and for the same government has to issue guidelines on e-commerce.

A competition lawyer M.S. Ananth from a corporate firm [17] said in this regard, "Aggressive pricing, including deep discounts, are not anti-competitive per se," and "Unless the practice is such that it is designed to defeat competition, it cannot, in law, be anti-competitive."

In India deep discount sales used to be announced earlier as well but as a ritual only before the festival seasons but with the arrival of the Flipkart and Amazon, these flat discount sales, which are many times even below the cost price, have started operating on daily basis. Flipkart surprised the market with its Big Billion Day sale which it offers every now. This strategy prompted its rivals to come up with their versions of day long sales offering deep discounts such as, Amazon came up with "The Great Indian Sale".

Government's new FDI policy on E-commerce

Government's new policy on Foreign Direct Investment in E-commerce was released on 26th December, 2018 and it came into effect on 1st February. The Department of Industrial Policy and Promotion (DIPP) under the Ministry of Commerce, Government of India introduced certain changes to the policy of 2017 governing FDI in ecommerce sector. This new policy basically aims at protecting the interests of local businessmen specially the offline market retailers.

The Ministry of Commerce and Industry framed certain guidelines in this regard that are need to be complied with by the entities operating in e-commerce. They major regulations are as follows:

- An online market entity operating as marketplace shall not exercise ownership or control over the inventory or the selling company which it intends to sell. And if ownership or control is exercised over the inventory by the marketplace entity then it shall be converted into an inventory-based model that cannot receive FDI.
- A seller shall not be allowed to sell on the marketplace owned by a marketplace entity if such marketplace entity or any of its group companies owns any stake in the company of the seller or exercises control over the inventory of such seller.
- The rules also apply in case if more than 25% of the total sale of a marketplace entity comes from a single vendor.
- The government also prohibited the marketplaces from hosting the exclusive products thus, debarring them from entering into any agreement of exclusive sale of products.
- An online marketplace entity will be required under this new policy to furnish a certificate along with a report of a statutory auditor to the Reserve Bank of India in order to confirm their compliance with these guidelines by 30th of September of every year for the preceding financial year.

This means, as a consequence of the new policy of the government, the Flipkart and Amazon will soon have to withdraw themselves from favouring their own or partner merchants like WS Retail (Flipkart) and cloudtail (Amazon). However, the Ministry has also ordered a ban on deep discounts on their websites. Cash back offers are also required to be fair and reasonable. Thus, their sales named as 'Big Billion Days' (Flipkart) and 'The Great Indian Festival' (Amazon) from now will not remain the same as they used to be earlier.

Challenges for competition regulating authority in India

E-commerce is one of the disruptive technologies we are looking at as it brings structural changes to trade and economy. [18] On one hand, it is clear that the Indian e-commerce industry has a potential of growth specially the way it provides benefits to the consumers. At the same time, on the other hand, it also gives rise to certain issues or problems that are not in the interest of the competition in the market and the end users, thus posing various challenges on the existing law regulating the market competition. With the fast-changing nature of online businesses, there are concerns regarding the elongated time between a full-fledged investigation and the determination of a violation. The CCI needs to take effective measures to adopt and apply stricter time frames for the disposal of cases. [19] There is a mismatch between time taken by authorities in deciding a case and new economy real time, which can cause the ultimate findings to become ineffectual. [20] The rapid emergence of internet based business models in India has led to an unprecedented transition in online economy, to deal with them in the best way we need a regulatory approach that helps innovation thrive and at the same time allowing competition to come out freely.

The monopolistic structure of market arising from the entry barriers created through network effects along with the exit of efficient competitors from the market cannot be self-regulated or self-corrected by major market players or forces. This is a matter of concern that poses a challenge on competition authorities to deal with. Another challenge that occurs for the CCI is that in most situations the commission does not find sufficient merits to investigate the matter under the Act. Ola's services case in Bengaluru, case against Google's search biasness and a few more are the only notable expressions.

'Regulatory interventions in new age markets to tackle competition issues is a "nuanced task" as it needs to be insured that the decisions do not stifle innovation'. [21] He acknowledged that the major challenge in digitalised world is that at times the traditional tools of enforcement and regulatory interventions might not be sufficient to deal with the problems of digitalised world which is characterised by network effects. "Making intervention in these new age markets for countering abuse is a nuanced task wherein we have to weigh efficiency vis-à-vis market power, we need to balance our decisions to address competition concerns and at the same time not to stifle innovation" [22] Thus, there are a no. of challenges that are the result of newly emerging e-commerce industry which needs to be regulated and dealt with effectively by CCI in accordance with the existing competition law in order to safeguard the interests of the consumers and promote the competition in the market.

However, the government is also thinking of tightening scrutiny of mergers in the e-commerce sector so that even small deals that potentially distort competitions are compulsorily examined by the country's anti-trust regulators. Based on the draft of National policy framework for e-commerce sector, all e-commerce companies like Flipkart and Amazon may have to store user data exclusively in India in view of security and privacy concerns. The draft also talks about government having access to data stored in India in the interest of national security and public policy objectives. Report of J. B N Srikrishna on data protection states- 'data provisions have to balance the interest of promoting business with security and privacy concerns' [23]

Conclusion

E-commerce is a new concept that has evolved over time with technological innovations and advancement. Though the competition law in India talks about various anticompetitive practices that are prohibited under it such as, formation of cartels, bid rigging, anticompetitive combinations, etc. But since the scope of study of this work is limited to section 4 of the Competition Act, 2002 that deals with abuse of dominance, therefore, the issues related to abuse of dominance in e-commerce in India are analysed and discussed. The focus is on the issues relating to abuse of dominance in the e-commerce in India and this paper throws light on the issues that are unique to the e-commerce sector other than those issues that are common to both the markets i.e. the offline market and the online market. It can be easily concluded that the e-commerce industry and the physical market are, for the most part, presenting the similar competition concerns which means that majority of issues are common to both the markets but since e-commerce is a product of technology therefore, it brings with it certain unique issues and thus, regulating authorities are required to be a step ahead in order to foresee such issues and take steps accordingly beforehand. Out of the common issues in both the markets, predatory pricing is the most prevalent issue in the e-commerce industry. Dominant firms in e-commerce market often engage in unfair pricing practices or the predatory pricing by offering deep discounts and cash back offers. While coming to the unique issues, the two major problems are negative impact of network effects and the determination of relevant market in e-commerce industry. A challenge is also being imposed on the Competition Commission of India as it is difficult to determine the relevant market in case of e-commerce because sometimes e-commerce is considered as a separate market while at some other time e-commerce markets and physical markets, both are considered as different channels of single market. Thus, every time CCI has to make efforts and spend time in order to delineate the relevant market and it differs from case to case. This imposes a challenge on CCI every time whenever a new case is dealt with, this issue arises again and again because till now no specific definition or parameter regarding the relevant market in e-commerce sector has been framed by the legislators and neither any judicial precedent is available in this regard. Thus, CCI often face difficulties in dealing with such situations.

Thus, it can be simply concluded that e-commerce has its own unique features and advantages, being driven by technological innovations, which are of immense importance for the growth and development of a country. It also has the ability of satisfying the customer demands and come up with new products and services. But on the contrary, it gives rise to a number of issues that are already discussed, thereby imposing a tough challenge on the Competition law regime and the competition regulating authorities to maintain a balance between innovation and fair market competition.

Suggestions

The problems of e-commerce are universal and more or less similar across all economies. The purpose of competition policy is to avoid situations where a limited no. of firms has market power and thus preventing new players from entering the market. Moreover, Indian e-commerce industry has certain problems in addition to those that are common to physical market economy. It is therefore a significant time for the Competition Commission of India to look more deeply and carefully into the different dynamic business practices being undertaken by online market enterprises. Competition authorities need to follow a more prospective approach and since e-commerce industry has no defined territory therefore, competition authorities of different countries must co-ordinate and co-operate while dealing with the issues of this industry in order to promote globalisation.

In spite of a large amount of funding received by the e-commerce marketplaces, most of the e-commerce enterprises suffer on the financial front as a large portion of such funded money goes into the facilitation of deep discounts. The issue of low brand loyalty in e-commerce is the result of such deep discounting strategies as customers are attracted by the lucrative discounts and cash back offers rather than the brands of the products. Therefore, there is a need that the e-commerce players should come up with some long-term sustainable strategies that are devoid of deep-discounts and that aims at retaining the customers being loyal towards certain brands. This will be ultimately beneficial in the long run as customer base will increase gradually and customer loyalty will enhance because sales at lower prices can attract customers only at the initial stage or for some shorter period of time only. Therefore, e-commerce retailers must think beyond this deep discounting strategy to acquire customers and build brand loyalty. This will not only build customer base but these e-commerce enterprises will also be able to stay away from indulging in such anticompetitive practices and consequently, no outer side regulation will be required to govern their conduct and this will also assist the CCI in regulating and promoting competition in the market more efficiently.

The qualifications provided, under section 8(1) of the Competition, Act 2002, for being a member of the Competition commission of India demand special knowledge and professional experience in any of the disciplines specified therein such as law, finance, business, etc. but it does not talk about any expert from the technical field. Since with time things have changed and the new e-commerce sector has evolved that is completely a product of technological innovation therefore, arrangements should be made to include an expert of IT field i.e. Information Technology in the commission who has knowledge and practical experience regarding digital world among others so that he could provide a better vision to deal with the dynamics of this technologically innovated industry.

Since the e-commerce industry is growing at a fast pace therefore, quick and smart decisions are needed to be taken in order to regulate this sector. Another thing that can be done is that a separate wing of the Competition Commission of India can be created that shall work under the supervision of the commission and it shall consist of regulators who are expert in this field. The wing shall work as a watchdog or an observatory to monitor the business transactions of the digital economy on regular basis and report the same to the commission.

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